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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

JANE DOE,

Plaintiff,

vs.

DR. DAVID J. DURKIN, KETAMINE
INFUSION OF MONTANA, LLC, and
DOES 1-5,

Defendants.

Case No.

**COMPLAINT
AND JURY DEMAND**

Plaintiff, by and through the undersigned, complains and alleges as follows:

1. Plaintiff Jane Doe resides in Idaho.
2. Defendant Dr. David Durkin resides in Flathead County, Montana.

3. Ketamine Infusion of Montana, LLC (“Ketamine Infusion”) is a Montana company doing business primarily in Flathead County, Montana.

4. Diversity jurisdiction exists pursuant to 28 U.S.C. § 1332 because Plaintiff and Defendants are citizens of different states and the amount in controversy exceeds \$75,000. Venue is appropriate in this District as the tortious conduct complained about herein occurred in a County within this District.

5. On or about May 9, 2022, Plaintiff was in the Kalispell area working as a pharmaceutical representative, teaching pharmacies how to bill and to help customers obtain money for prescriptions.

6. Plaintiff was out with friends at a bar and was playing poker and drinking. At around 11:30 p.m. on May 9, 2022, Plaintiff called an Uber to pick her up and take her back to her hotel.

7. Plaintiff was intoxicated and not capable of consent.

8. Although Plaintiff has no memory of it, Dr. Durkin at that point put Plaintiff into his pickup truck and took her to his place of business, Ketamine Infusion.

9. At Ketamine Infusion, Dr. Durkin administered Ketamine to Plaintiff and then sexually assaulted her. According to the DEA, “Ketamine produces hallucinations. It distorts perceptions of sight and sound and makes the user feel disconnected and not in control. Ketamine may cause unwanted side effects such

as: agitation, depression, cognitive difficulties, unconsciousness, and amnesia.”¹

Plaintiff was not capable of sexual consent following Dr. Durkin’s administration of Ketamine.

10. Plaintiff regained consciousness, gathered her clothes, fled Ketamine Infusion, and called 911. Dr. Durkin attempted to get Plaintiff to get into his car, and his son at one point arrived and attempted to help his father subdue Plaintiff.

11. Dr. Durkin’s conduct constitutes assault, battery, deprivation of bodily liberty, kidnapping, false imprisonment, and/or infliction of emotional distress.

12. Upon information and belief, Dr. Durkin manages/controls Ketamine Infusion, and Ketamine Infusion is responsible for Dr. Durkin’s actions under agency law.

13. Alternatively, Ketamine Infusion had a duty to protect its Ketamine supply and ensure that Ketamine is only administered in a medically correct fashion, and not as a means to commit sexual assault. Ketamine Infusion was negligent in failing to protect its Ketamine supply and allowed it to be used for an improper purpose.

14. Plaintiff has and will suffer physical and emotional pain, suffering and distress because of Defendants’ actions.

¹ See <https://www.dea.gov/factsheets/ketamine>

15. Plaintiff is entitled to compensatory damages for Defendants' conduct in an amount to be determined at trial.

16. Defendants' conduct is malicious as that term is defined under Montana law for purposes of imposing punitive damages, and Plaintiff seeks punitive damages against Defendants in an amount sufficient to punish and deter them and others for committing such heinous conduct.

WHEREFORE, Plaintiff prays for the following relief:

1. Her actual damages, along with interest on damages;
2. Punitive damages; and
3. For such other relief as deemed just and proper.

JURY DEMAND

Plaintiffs demand trial by jury on all issues so triable.

Dated this 15th day of September, 2023.

SPOON GORDON PC
HEENAN & COOK

/s/ John Heenan
Attorneys for Plaintiff